IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

Writ Petition No.2977 of 2004
and
W.P.M.P. Nos.3487 & 3488 of 2004

K.Kandasamy ... Petitioner

vs.

The Tamilnadu Industrial Investment
Corporation Ltd.,
rep. by its Branch Manager,
33, Senguptha Singuthapuram,
5th Cross, Karur-639 002. ... Respondent

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent's impugned order dated 29.01.2004 made in TIIC/KRR/BO/LAA/2003-04, quash the same and consequently reschedule the outstanding loan in terms of the representation of the petitioner dated 06.02.2004.

For Petitioner : Mrs.G.Thilakavathi

For Respondent : Mr.Kalyanaraman for
M/s.Aiyer & Dolia.

O R D E R

The petitioner by name K.Kandasamy, aged about 75 years, approached this Court for quashing the order of the respondent dated 29.01.2004 made in TIIC/KRR/BO/LAA/2003-04.

2. Heard learned counsel for the petitioner as well as the respondent.

3. In view of the order to be passed here-under, I am of the view that it is unnecessary to refer the factual details as stated by the petitioner in his affidavit and by the respondent in his counter affidavit.

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4. As per the proceedings dated 31.08.2005 of the respondent/Corporation, the amount required to be paid by the petitioner is as follows:-

Principal	-	Rs.3,58,000.00
Other dues (31.8.05)	-	Rs. 5,450.00
Total Amount	-	Rs.3,63,450.00

It is further seen that the petitioner opted to avail OTS (One Time Settlement) Scheme, for which, he was asked to pay 20% of the OTS amount, that too, on or before 30.11.2005. The balance OTS amount was required to be paid in monthly instalments on or before 31.03.2006 with interest on the balance OTS amount at 11% from 01.12.2005 till the date of settlement of account.

As per the above statement, 20% of Rs.3,63,450/-, which works out to Rs.73,000/-, was paid on 31.11.2005. A balance of Rs.2,90,450/- was required to be paid on or before 31.3.2006 with 11% interest. According to the petitioner, because of financial constraints and of his old age, he is not in a position to pay the entire balance amount on or before 31.3.2006 as directed, however, he gives an undertaking that he will pay Rs.50,000/- on or before 31.03.2006 and that the balance sum of Rs.2,40,450/- will be repaid with interest at 11% in three equal instalments. Learned counsel appearing for the respondent submits that having availed the concession under the OTS, the petitioner is expected to pay the balance amount on or before 31.03.2006 and there is no provision for extension as per the scheme applied to the petitioner.

5. It is not in dispute that as per the terms of the OTS, the petitioner paid 20% of the total amount, viz., Rs.73,000/-, even on 31.11.2005. The balance comes to Rs.2,90,450/- and, as per the terms, the said sum has to be paid before 31.03.2006 with 11% interest. The petitioner is willing to pay Rs.50,000/- before 31.03.2006. As far as the balance amount of Rs.2,40,450/- is concerned, he seeks further indulgence for payment of the same with 11% interest thereon in three equal instalments.

6. Taking note of the grievance expressed and of the fact that the petitioner is a senior citizen, aged about 75 years, and also considering the fact that in terms of the OTS, he repaid 20% of the OTS amount even on 31.11.2005, this Court is inclined to accept the request of the petitioner. Accordingly, the following direction is issued:

(a) The undertaking given by the petitioner for payment of Rs.50,000/- on or before 31.3.2006 is

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hereby recorded and he shall make the payment, as per the undertaking, without default.

(b) The petitioner is permitted to pay the balance sum of Rs.2,40,450/- with interest at the rate of 11% as per the order dated 31.8.2005 in three equal monthly instalments. The amount due for the first instalment shall be paid on or before 03.05.2006; second instalment on or before 03.06.2006 and the third instalment on or before 03.07.2006.

(c) It is made clear that in the case of failure on the part of the petitioner to comply with any one of the conditions mentioned above, the respondent/Corporation is free to recover the amount in terms of agreement.

7. Writ Petition is disposed of on the above terms. Connected Miscellaneous Petitions are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI.
To
The Branch Manager,Tamilnadu Industrial Investment
Corporation Ltd., 33, Senguptha Singuthapuram,
5th Cross, Karur-639 002.

Copy to

The Section Officer,
VR Section, High Court, Madras (For sending records if any)

+1cc to M/s. Aiyar & Dolia, Advocate Sr 10404
+1cc to M/s. G.Thilakavathi, Advocate Sr 10332

MSR (CO)
km/6.3.

W.P. No.2977 of 2004
& connected WPMPs.

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